

STATE OF ILLINOIS  
**DEPARTMENT OF NUCLEAR SAFETY**

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March 17, 2000

DOCKET NUMBER  
PROPOSED RULE **PR 71+73**  
(64FR71331)

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attn: Rulemakings and Adjudications Staff

RE: Advance Notification to Native American Tribes of Transportation of Certain  
Types of Nuclear Waste

The Illinois Department of Nuclear Safety (IDNS) is the cognizant authority in Illinois relative to the safe transportation of high-level radioactive waste (HLW) spent nuclear fuel (SNF), and transuranic waste (TRU). IDNS has a very active program that includes inspection and escort of each shipment of HLW, SNF and TRU waste that traverses the state. IDNS submits the following comments on NRC's proposal to amend 10 CFR Parts 71 and 73 to provide for advance notification to Native American Tribes.

IDNS supports NRC's intent to provide the Native American Tribes with more information about SNF shipments that may go through their Tribal lands. Such shipments clearly have impact on Tribal resources just as they impact state resources. Also, Tribes with viable emergency response capability can easily demonstrate a "right to know" such information.

The President's 1994 memorandum on Government to Government relations with Native American Tribes encourages federal agencies to consult with Tribal governments before engaging in activities that may affect Tribes. NRC's proposed amendment, although providing useful information, does not establish a consulting mechanism. We believe the intent of the memorandum was for federal agencies to establish a meaningful dialogue with the Tribes to allow Tribal Governments to provide input to the federal government's decision-making process. Such meaningful dialogue can only be accomplished when input is solicited very early in the process. IDNS also believes that NRC should establish a consulting mechanism with the states to allow early and substantive state input to NRC's decisions on SNF routing.

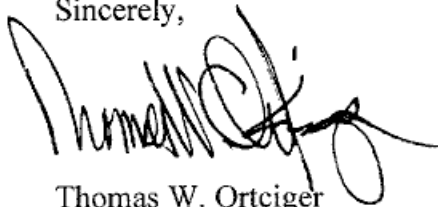
NRC should look to the U. S. Department of Energy (DOE) for the appropriate model. DOE recognizes that shipments of SNF and TRU under its control have considerable impact on Tribes and states along the route. In response, DOE has established a process for ensuring early and substantive opportunities for consultation with the Tribes and states on both routing and emergency preparedness issues. Although DOE has not always incorporated our input into its planning to our satisfaction, a framework exists that supports useful dialogue and opportunities for further cooperation.

DOE has made a practice of conforming with NRC regulations relative to notifications of spent nuclear fuel shipments. It should be noted that if DOE, when making shipments in accordance with NRC regulations, were to implement only the notifications required under the proposed amendment, they would be taking a step backward in their attempts to maintain effective dialogue with the governments along the shipment routes.

Over the past year, we at IDNS have witnessed a considerable increase in the level of interest and concern among members of the public, as well as elected officials over shipments of radioactive materials. Both of these groups have been alarmed by poor information disseminated by interest groups and repeated by the press. We believe that the Tribes and states can play a role in providing timely public education and liaison with local responders. Although so far this concern has been focused on federal shipments, we see no reason why NRC licensees would be immune to such scrutiny.

For these reasons, we suggest that NRC expand the scope of the proposed amendment to provide for substantive consultation with the Tribes and states for shipments of spent nuclear fuel.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas W. Ortziger', with a stylized flourish at the end.

Thomas W. Ortziger  
Director

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